

Smoke-Free Law Questions and Answers

The initial filing of the rules was posted. What is the next step?

The Ohio Department of Health will accept public comment for 30 days. Then they will hold a public hearing. Then the Joint Committee on Agency Rule Review (JCARR) will vote on whether the rules meet the intent of the law. Once the rules are approved, the rules will be enforceable in 10 days.

Why does this process take so long?

Every law passed by voters must have rules enacted. The rule-making process has several mandatory public comment periods included. At this time, the Ohio Department of Health is moving ahead as quickly as the law allows.

Why was the law enacted if the rules were not complete?

The Ohio Constitution requires that laws passed by voters be enacted 30 days after the election. The SmokeFree Workplace Act became law on December 7, 2006.

Aren't businesses confused about the law?

They shouldn't be. The law is pretty simple. It simply states that businesses need to remove ashtrays, post no-smoking signs with the complaint number, and to prohibit smoking. The Ohio Department of Health is also sending information letters to all 280,000 businesses in Ohio to eliminate any confusion.

Who will enforce the law?

The rules grant authority to local health departments to enforce the law. Environmental inspectors already go out to ensure businesses, such as restaurants, comply with health regulations. This is just another check on the list. The law is also largely complaint-driven.

Why are private clubs smoke-free under the law?

The law passed by voters guarantees every worker the right to a smoke-free workplace. Private clubs which have workers are included. The American Cancer Society and other health agencies who put the law on the ballot said they would not pick and choose which workers should be exposed to a proven health hazard, and which ones should not.

Also, some bars had tried getting around Toledo's smoke-free law by declaring themselves a "private club." They charged their customers a \$1 "lifetime membership fee" and said they benefited a charity they founded, "Taverns for Tots." This was clearly a sham to try to evade the smoke-free law. The SmokeFreeOhio campaign wrote the law very narrowly to avoid this loophole.

Finally, if a private club has employees, it is a business. All businesses are covered by the law to ensure a level playing field statewide.

Will police enforce the smoking law?

No. The Ohio Department of Health has authority under the law. The rules designate authority to local health departments.

What happens if businesses break the law after enforcement begins?

The law states that businesses will get a warning letter for a first violation. The second violation will create a civil fine of \$100. The third violation triggers a fine of \$500. The fourth is \$1,000. The fifth and following violations are \$2,500.

What about smokers who violate the law?

They will receive a warning letter for the first violation and a \$100 civil fine for every violation thereafter.

Will you really enforce the law?

Yes. Voters gave us a mandate to ensure public places are smoke-free. The Association of Ohio Health Commissioners and this health department endorsed the SmokeFreeOhio campaign because it will protect public health. Secondhand smoke can cause lung cancer and heart disease in nonsmokers. Workers exposed to secondhand smoke are at up to 30% higher risk for lung cancer and heart disease, according to the U.S. Surgeon General's report on secondhand smoke.

Will businesses actually comply?

Yes. Other cities and states that passed similar laws find compliance well over 90%. The law is largely self-enforcing. I think some businesses who currently violate the law will change their tunes once they face fines. Voters who support this law will also pressure businesses to comply.

Important note:

We need to stress to our communities that this is the most important public health initiative Ohio has seen in decades. If asked about funding, we should mention that the dollars raised from violations will go right back into enforcement. We expect compliance to be high, violations and fines to be infrequent – so the longterm cost of enforcement will be low.